

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13993 of Janet G. and Eric Reid, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from warehouse, storage of bakery products only, to auto upholstering, first floor, in an R-1-B District at premises 2408 Douglas Street, N.E. (Square 4284, Lot 818).

HEARING DATE: August 10, 1983
DECISION DATE: August 10, 1983 (Bench Decision)

FINDINGS OF FACTS:

1. The subject property is located at the northwest corner of the intersection of 24th and Douglas Streets, N.E. and is known as premises 2408 Douglas Street, N.E. It is zoned R-1-B.

2. The subject property is presently improved with a single family detached dwelling and a one-story brick structure.

3. The one-story brick structure was previously occupied as a warehouse for the storage of bakery products, as approved under BZA Order No. 8748, dated July 28, 1966.

4. To the east of the subject property separated from the site by a public alley, and to the south of the building site, across Douglas Street, is C-M-1 zoning.

5. The application was advertised as seeking special exception relief under Sub-section 7104.2. By letter dated August 1, 1983, the Zoning Secretariat informed the applicant that, on July 18, 1983, the Zoning Commission adopted Order No. 403 which amended the Zoning Regulations concerning nonconforming uses and structures. A copy of Order No. 403 was enclosed.

6. Zoning Commission Order No. 403 became effective on August 5, 1983. As set forth in Sub-section 8104.8 of the Regulations, the subject application therefore must meet the standards of the Regulations as revised, as set forth in Paragraph 7106.11 of the Zoning Regulations.

7. The applicant proposes to change a nonconforming use from warehouse, storage of bakery products only, to an auto upholstering shop.

8. If approved by the BZA, an existing nonconforming use may be changed to a use which is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter of right, provided that:

"7106.111 The proposed use will not adversely effect the present character or future development of the surrounding area in accordance with these regulations. Such surrounding area shall be deemed to encompass the existing uses and structures within at least 300 feet in all direction from the nonconforming use.

7106.112 The proposed use will not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.

7106.113 When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use.

7106.114 In Residential Districts, the proposed use shall be either a dwelling, flat, apartment house or a neighborhood facility.

7106.115 For the purpose of this paragraph the districts established by these regulations are listed in the following order of decreased use restriction: R-1-A, R-1-B, R-2, R-3, R-5-A, R-4, R-5-B, R-5-C, R-5-D, SP-1, SP-2, C-1, C-2-A, C-2-B, C-2-C, C-3-A, C-3-B, C-3-C, C-4, C-5 (PAD), W-1, W-2, W-3, CR, C-M-1, C-M-2, C-M-3, M.

7106.116 The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it may deem necessary to protect the value, utilization, or enjoyment of property in the neighborhood."

9. The previous warehouse use and the proposed auto upholstery shop are both first permitted as a matter-of-right in the C-M-1 District pursuant to Paragraph 6101.35.

10. The applicant chose the subject site because of its location and affordability. The applicant expects to draw its customers primarily from a city-wide area, with a few from Maryland and Virginia.

11. The Office of Planning, by memorandum dated August 3, 1983, recommended that the application be denied. The Office of Planning was of the opinion that the proposed use did not meet the "neighborhood facility" criteria of Sub-paragraph 7106.114 and that the proposed use could potentially impact adjoining residential properties in terms of noise and automobile parking, or storage. The Board concurs with the Office of Planning's findings and recommendation.

12. Advisory Neighborhood Commission 5B made no recommendation on the application.

13. There was no opposition to the application present at the public hearing or of record.


CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires that the applicant comply with the requirements of Paragraph 7106.11 of the Zoning Regulations. The Board concludes that the applicant has not so complied. The proposed use provides a specialized service which attracts customers from the entire Metropolitan area and therefore can not be considered as a neighborhood facility as required by Sub-paragraph 7106.114. The subject structure has previously been used as a warehouse for the storage of bakery products with no indication of adverse impacts on the surrounding neighborhood. However, the nature of the proposed use would require the parking or storage of vehicles being serviced or awaiting service which may create an impact on adjacent residential properties. The applicant presented no evidence that the proposed use would not adversely affect the present character or future development of the surrounding area, as required by Sub-paragraph 7106.111. The applicant failed to address the impact on the neighborhood which could result from the exterior effects of the proposed use such as noise, traffic, parking and loading considerations, illumination, vibration, odor and design and siting effects, as required by Sub-paragraph 7106.112. The Board notes that, while the proposed use is not out of character with the development of adjacent C-M-1 properties, the subject structure is located on the same lot as a single family dwelling, located in a R-1-B District. The Board concludes that the requested relief can not be granted without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly it is ORDERED that the application is DENIED.

VOTE: 4-0 (Lindsley Williams, Carrie L. Thornhill,
Charles R. Norris and William F. McIntosh to
deny, Douglas J. Patton not present, not
voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: NOV 18 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO
DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN
DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL
RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING
ADJUSTMENT."

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